

PUBLICATION 152

SEPTEMBER 2017

CIGARETTE AND TOBACCO PRODUCT INSPECTIONS

**CALIFORNIA DEPARTMENT OF
TAX AND FEE ADMINISTRATION**

Why are you inspecting my business?

We are conducting a routine inspection of your business to see if you are following state laws that control the sale of cigarettes and tobacco products in California.

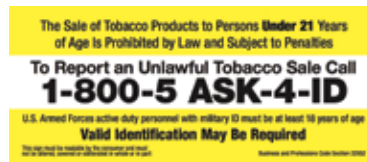
What are you looking for?

We will check to see if:

- You have a California Department of Tax and Fee Administration (CDTFA) license to sell cigarettes and tobacco products, and any other business permits or licenses you may be required to have.

Note: As of January 1, 2017, state law expanded the definition of a tobacco product, for retail licensing purposes, to include any electronic smoking or vaping devices or any component, part, or accessory of a tobacco product, whether sold together or separately. If you sell any of these products at retail, you are required to possess a CDTFA cigarette and tobacco retailer license. Visit the CDTFA website for more information on this topic.

- You bought your cigarettes and tobacco products from a CDTFA-licensed cigarette and tobacco products distributor or wholesaler (sales between retailers are prohibited) and have supporting purchase invoices for your inventory. Be sure to check the CDTFA website to keep current on all requirements for cigarette and tobacco product invoices.
- The cigarettes in your inventory:
 - Have valid California tax stamps affixed,
 - Do not include flavored cigarettes (menthols are exempt), and
 - Are listed on the [California Tobacco Directory](#) as legal to sell in California (roll-your-own tobacco must also be listed on the Tobacco Directory).
- The cigarette packs in your inventory comply with the “low ignition propensity” fire safety requirements of California.
- The California excise tax on your other tobacco products was paid.



- Your STAKE Act signage is displayed by each cash register and other points of sale.

These inspections are authorized by state laws known as the California Cigarette and Tobacco Products Licensing Act of 2003 (Division 8.6 of the California Business and Professions Code), Cigarette and Tobacco Products Tax Law (Part 13, Division 2 of the Revenue and Taxation Code), California Cigarette Fire Safety and Firefighter Protection Act (Division 12 of the California Health and Safety Code), and [Stop Tobacco Access to Kids Enforcement Act](#) (Division 8.5 of the California Business and Professions Code).

What will happen during the inspection?

Our inspectors will enter your business, identify themselves to you or your employees, and show their CDTFA identification. They will ask you to:

- Show them your personal identification.
- Show them your entire cigarette and tobacco product inventory.
- Provide all of your cigarette and tobacco product purchase and sales invoices (or register tapes) for the last 12 months, which are required to be kept at your business location.
- Identify where your cigarette and tobacco product purchase and sales invoices (or register tapes) are located. These records are required to be kept for four years.

The inspectors will examine the cigarettes and tobacco products at your business location and any place such as other buildings or in storage containers where you may keep additional products. They will electronically scan the tax stamps on cigarettes in your inventory and review your purchase and sales invoices to see whether those invoices reconcile with your inventory.

You will also be given a copy of publication 78, *Sales of Cigarettes and Tobacco Products in California*, which provides additional information about this program.

What happens if the inspectors find products that I can’t legally sell?

The inspectors may seize any untaxed, counterfeit, or otherwise illegal cigarette or tobacco products they find. They will:

- Explain the reason for the seizure,
- Give you a detailed receipt listing the products seized,
- Provide you with their contact information, and may also
- Issue you a citation.

Any cigarette brands or roll-your-own (RYO) tobacco products not listed on the Attorney General’s California Tobacco Directory may be subject to seizure. Retailers and wholesalers should always check the Tobacco Directory before buying cigarettes and RYO tobacco from CDTFA licensed distributors. The California Tobacco Directory website is located at www.oag.ca.gov/tobacco/directory.

Note: When cigarettes or RYO tobacco are removed from the Tobacco Directory, retailers are allowed to possess, transport, and sell tax-stamped cigarettes or RYO tobacco for 60 days from the effective date of their removal.

Can I get seized products back?

You have the right to ask that your products be returned. If our inspectors seize any products during the inspection, we will mail you a notice listing the products and describing your right to challenge their seizure. We will include a *Verified Petition for Release or Recovery of Property* form with the notice.

Under state law, seized cigarettes or tobacco products can only be returned if we seized them by mistake or illegally. To ask for return of your products, you must submit a completed petition form and explain why the seizure was in error or illegal. We will respond to your petition in writing.

What happens if I get a citation?

If you are issued a civil citation, you will receive a *Notice of Violation* in the mail from the CDTFA. The notice will explain the specific violation(s) you were cited for, any civil penalties or consequences, and your appeal rights.

If you are issued a criminal citation, you must appear in court as noted on the citation and may also receive notice from the District Attorney’s Office regarding the criminal proceedings. If you fail to appear in court, a bench warrant will be issued against you and your cigarette and tobacco license may be suspended or revoked and penalties imposed.

The Cigarette and Tobacco Products Licensing Act provides for civil penalties to be imposed by the CDTFA in addition to any other criminal penalties that may be imposed by the courts (see publication 161, *Criminal Citations Include a Civil Administrative Process*). After the court rules on your criminal citation, you will receive a *Notice of Violation* in the mail from the CDTFA that will list all your violations, explain your appeal rights, and provide you with other pertinent information.

What happens if my license is suspended or revoked?

During the period of suspension or revocation, you are prohibited from displaying for sale, selling, or gifting cigarettes or tobacco products. Continued display for sale after receiving a Notice of Suspension or Revocation is subject to a civil penalty of \$1,000 for each offense. Continued sales or gifting after the effective date of suspension or revocation is a misdemeanor and will result in the seizure and forfeiture of all cigarettes and tobacco products in your possession.

With the Notice of Suspension or Revocation mailed by the CDTFA, retailers will also receive a sign that must be posted at each public entrance, by each cash register and other points of sale at the location subject to the suspension or revocation. Failure to post the sign as required, for the entire period indicated on the notice, will result in a \$1,000 penalty for each offense.

Do I have any rights related to this inspection?

Yes, you have specific legal rights as a California taxpayer. Our employees must honor and protect those rights. As explained in publication 70, *Understanding Your Rights*, you have the right to:

- Courteous and prompt service,
- Fair treatment,
- Confidentiality,
- Information and assistance, and
- Appeal an assessment.

Can I file a complaint if I have concerns about the inspection or the inspector’s behavior?

Yes. If you believe an inspector was unprofessional or violated your rights, you may file a complaint by:

- Calling the Investigations Division at: 1-916-324-0105
- Filing online at: www.cdtfa.ca.gov/legal/icomplaint.htm
- Writing to: Investigations Division, MIC:42
California Department of Tax and Fee Administration
PO Box 942879
Sacramento, CA 94279-0042

Be sure to fully explain your concerns in detail. Your complaint will be handled by an Investigations Division supervisor or manager, who will contact you. If you are unable to resolve the problem with the supervisor or manager or prefer to have your complaint handled outside the division, you may contact the CDTFA Taxpayers’ Rights Advocate Office.

Taxpayers’ Rights Advocate Office

The Taxpayers’ Rights Advocate Office helps taxpayers who have not been able to resolve a matter through normal channels, when they want information about procedures related to a particular situation, or when

there appears to be a violation of their rights. You may call the office toll-free at 1-888-324-2798 or contact them at www.cdtfa.ca.gov/info/emailtra.htm. The office will independently investigate your inspection complaint and respond.

For More Information

If you have any questions about the inspection, you may contact our Investigations Division at 1-916-324-0105. For more information regarding cigarette and tobacco products licensing, call the Customer Service Center at 1-800-400-7115; select the option for Special Taxes and Fees.

The CDTFA also offers a free class regarding its Cigarette and Tobacco Products Licensing program. The class covers license requirements, recent law changes, the inspection process, records maintenance, application of penalties, and much more. To see the class schedule, click on the “Helpful Tax Seminars” link on the CDTFA’s website or call 1-916-322-8536.

The following related publications are also available from our website, www.cdtfa.ca.gov, or by calling our Customer Service Center at 1-800-400-7115 (TTY:711). Some of these publications are also available in the following languages: Arabic, Chinese, Korean, Punjabi, Spanish, Tagalog, Thai, and Vietnamese.

63	<i>Cigarette Distributor Licensing and Tax Stamp Guide</i>
70	<i>Understanding Your Rights as a California Taxpayer</i>
78	<i>Sales of Cigarettes and Tobacco Products in California—License Requirements for Retailers</i>
93	<i>Cigarette and Tobacco Products Taxes</i>
152	<i>Cigarette and Tobacco Product Inspections</i>
161	<i>Criminal Citations Include a Civil Administrative Process</i>
403	<i>California Counterfeit-Resistant Cigarette Tax Stamp</i>
407	<i>Master Settlement Agreement</i>

- 429 *Flavored Cigarettes Banned in the United States*
- 473 *Cigarette and Tobacco Products Retailers: Things to Know Before You Buy Products*

Tax evasion hurts all of us...

To report suspected tax evasion, call our Tax Evasion Hotline at 1-888-334-3300 or the Investigations Division at 1-916-324-0105.